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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/038,973      | 12/31/2001  | James J. Hlaban      | 17,693              | 9556             |

23556 7590 07/29/2003

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[REDACTED] EXAMINER

ANDERSON, CATHARINE L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3761     |              |

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/038,973             | HLABAN ET AL.       |  |
| <b>Examiner</b>              | <b>Art Unit</b>        |                     |  |
| C. Lynne Anderson            | 3761                   |                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 09 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1,3-9 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-9 and 21-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8,9</u> | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Objections***

Claims 6 and 28 are objected to because of the following informalities:

Claim 6 depends from cancelled claim 2. Appropriate correction is required.

Claim 28 discloses the limitation "the article" in line 9. Previously, an absorbent article is disclosed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 9, 21-23, 27, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Osborn, III et al. (6,254,584).

With respect to claim 28, Osborn discloses an absorbent article 20, as shown in figure 4, configured for disposition within the vestibule of a female wearer, comprising an absorbent 22. The absorbent 22 comprises an upper surface 124 having a slit 127, as shown in figure 4, which provides at least one fluid intake enhancement means. The absorbent 22 has a width no greater than about 70 mm, a length no greater than 100 mm, and a thickness no greater than 10 mm, as disclosed in column 5, lines 15-24. The slit 127 extends through at least 50% of the thickness of the absorbent 30, as shown

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in figure 4, and provide increased surface area of the absorbent 22 when the absorbent article 20 is folded along an axis parallel to the longitudinal axis.

With respect to claim 1, the slit 127 minimizes the surface area of the portion of the absorbent article 20 that comes into contact with the floor of the vestibule, as the surface of the slit is recessed from the upper surface of the absorbent article 20, and therefore not in contact with the floor of the vestibule.

With respect to claim 3, the slit 127 is a single continuous slit, as shown in figure 4.

With respect to claim 4, the slit 127 extends 100%, or at least 80%, of the length of the absorbent 22.

With respect to claim 5, the slit extends at least 80% of the width of the absorbent 22.

With respect to claim 9, the absorbent 22 comprises superabsorbent polymer, as disclosed in column 6, line 17.

With respect to claim 21, the slit 127 is a single continuous slit, as shown in figure 4.

With respect to claim 22, the slit extends 100%, or at least 90%, of the length of the absorbent 22.

With respect to claim 23, the slit extends at least 90% of the width of the absorbent 22.

With respect to claim 27, the absorbent 22 comprises superabsorbent polymer, as disclosed in column 6, line 17.

Claims 1, 6-9, and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Sartorio et al. (6,319,238).

With respect to claim 28, Sartorio discloses an absorbent article 10, as shown in figure 1, configured for disposition within the vestibule of a female wearer, comprising an absorbent 30. The absorbent 30 comprises an upper surface 22 having a slit 40, as shown in figure 2, which provides at least one fluid intake enhancement means. The absorbent 30 has a width no greater than about 70 mm, as disclosed in column 3, lines 56-58. The length of the article is less than 100 mm, as disclosed in column 4, lines 8-11, and the thickness is less than 10 mm, as disclosed in column 3, lines 48-50. The slits 40 extend through at least 50% of the thickness of the absorbent 30, as shown in figure 5, and provide increased surface area of the absorbent 30. The increased surface area allows fluids to be more rapidly absorbent when the article 10 is folded along an axis parallel to the longitudinal axis.

With respect to claim 1, the slit 40 further provides a placement enhancement means, which minimizes the surface area of that portion of the absorbent article 20 that comes in contact with the floor of the vestibule. The surface area of the absorbent 30 within the slit 40 will not contact the floor of the vestibule, thereby minimizing the surface area in contact.

With respect to claim 6, the slit 40 is a series of slits, as shown in figure 2.

With respect to claim 7, the slits 40 extend 100%, or at least 80% of the length of the absorbent 30, as shown in figure 1.

With respect to claim 8, the slit 40 extends at least about 80% of the width of the absorbent 30, as shown in figure 5.

With respect to claim 9, the absorbent 30 comprises a superabsorbent polymer, as disclosed in column 6, lines 33-36.

With respect to claim 24, the slit 40 is a series of slits, as shown in figure 2.

With respect to claim 25, the slits 40 extend 100%, or at least 90% of the length of the absorbent 30, as shown in figure 1.

With respect to claim 26, the slits 40 extend at least 90% of the width of the absorbent 30, as shown in figure 5.

With respect to claim 27, the absorbent 30 comprises a superabsorbent polymer, as disclosed in column 6, lines 33-36.

### ***Response to Arguments***

Applicant's arguments filed 09 June 2003 have been fully considered but they are not persuasive.

With respect to Applicant's argument that Osborn, III et al. fail to disclose a slit, it is noted that the definition of slit is a long narrow cut or opening. Osborn discloses a long narrow opening, as shown in figure 4.

With respect to Applicant's argument that Sartorio et al. fail to disclose an absorbent, but rather discloses a plurality of stacked, flexible elements, it is noted that Sartorio clearly shows, in figures 5 and 6, a cross-section of the absorbent, which is a single absorbent, not a plurality of stacked elements. The single absorbent is described in column 5, lines 16-17.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CMA  
cla  
July 22, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700